

### REMARKS

The Office Action of October 21, 2005 has been received and considered. Claims 1-22 are pending. Claim 18 has been amended. Reconsideration of the application in view of the preceding amendments and following remarks, and allowance of the pending claims is respectfully requested. Each of the Examiner's rejections is discussed below.

#### Section 112

Claim 18 has been rejected under 35 U.S.C. § 112, second paragraph, on the grounds that the phrase "each rib" lacks antecedent basis. Claim 18 has been amended in non-limiting fashion to correct a typographical error, as noted by the Examiner, and now correctly depends from claim 17, thereby resolving the antecedent basis issue. Claim 18 is now believed to be in proper form, and an indication to that effect is respectfully requested at this time.

#### Section 102

##### Claims 1-3, 6, 10-14 and 16

Claims 1-3, 6, 10-14 and 16 have been rejected under 35 U.S.C. § 102(a) or (e) over U.S. Patent No. 6,568,102 to Healy ("Healy"). This rejection is respectfully traversed.

Healy discloses a shoe 20 having an upper 26, a midsole 24, and an outsole 22. A horizontal lower heel plate 48 is spaced from an upper plate 46, with shock-absorber elements 44 extending between plate 46 and plate 48.

Applicants respectfully submit that Healy fails to disclose or make obvious a heel plate extending downwardly and rearwardly from a midfoot portion of an outsole, as required by independent claim 1. As noted above, and as can be seen in FIG. 1 of Healy, heel plate 48 does not extend downwardly and rearwardly from a midfoot of the outsole. Heel plate 48 extends in a

horizontal direction with respect to shoe 20 and outsole 22, not downwardly and rearwardly. Further, heel plate 48 is positioned between upper plate 46 and outsole 22; it does not extend from the outsole.

Accordingly, the rejection is improper and should be withdrawn.

### **Claims 1, 2 and 10-16**

Claims 1, 2 and 10-16 have been rejected under 35 U.S.C. § 102(b) over U.S. Patent No. 6,487,796 to Avar ("Avar"). This rejection is respectfully traversed.

Avar discloses a shoe 100 having an upper 102, a heel plate 104 and a sole 106. Sole 106 includes a horizontally disposed base 110 and an outsole 114. Support elements 108 extend between heel plate 104 and base 110.

Applicants respectfully submit that Avar fails to disclose or make obvious a heel plate extending downwardly and rearwardly from a midfoot portion of an outsole, as required by independent claim 1. As can be seen in FIG. 3 of Avar, base 110 does not extend downwardly and rearwardly from a midfoot of the outsole of shoe 100. Rather, base 110 extends in a horizontal direction with respect to shoe 100 and sole 106, not downwardly and rearwardly.

Accordingly, the rejection is improper and should be withdrawn.

### **Section 103**

#### **Claim 3**

Claim 3 has been rejected under 35 U.S.C. § 103(a) over Healy. This rejection is respectfully traversed.

As discussed above, Healy fails to disclose or make obvious a heel plate extending downwardly and rearwardly from a midfoot portion of an outsole, as required by independent

claim 1, from which claim 3 depends. Accordingly, the rejection is improper and should be withdrawn.

**Claims 4, 5, 9, 19 and 22**

Claims 4, 5, 9, 19 and 22 have been rejected under 35 U.S.C. § 103(a) over Healy or Avar in view of U.S. Patent No. 6,161,315 to Dalton ("Dalton") or U.S. Patent No. 4,559,724 to Norton ("Norton"). Dalton and Norton are cited as disclosing projections and spikes for traction in running shoes. This rejection is respectfully traversed.

Dalton and Norton fail to overcome the deficiencies of Healy and Avar noted above. Specifically, Dalton and Norton fail to disclose or make obvious a heel plate extending downwardly and rearwardly from a midfoot portion of an outsole, as required by independent claims 1, 19 and 22. Dalton and Norton simply have no heel plate extending from an outsole.

Accordingly, the rejection is improper and should be withdrawn.

**Claims 4-9, 19 and 22**

Claims 4-9, 19 and 22 have been rejected under 35 U.S.C. § 103(a) over Healy or Avar in view of U.S. Patent No. 6,289,611 to Patterson ("Patterson"). Patterson is cited as disclosing pyramidal projections and spikes for traction in running shoes. This rejection is respectfully traversed.

Patterson fails to overcome the deficiencies of Healy and Avar noted above. Specifically, Patterson fails to disclose or make obvious a heel plate extending downwardly and rearwardly from a midfoot portion of an outsole, as required by independent claims 1, 19 and 22. Patterson simply has no heel plate extending from an outsole.

Accordingly, the rejection is improper and should be withdrawn.

**Allowable Subject Matter**

Applicants thank the Examiner for the indication that claims 17, 20 and 21 would be allowable if rewritten in independent form to include all of the limitations of the base claim and any intervening claims. Since independent claims 1 and 19, from which claims 17, 20 and 21 depend, are believed to be allowable in their present form as discussed above, claims 17, 20 and 21 are believed to be allowable in their present form as well. An indication to that effect is respectfully requested at this time.

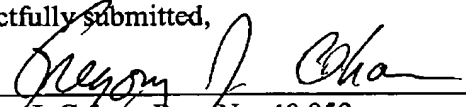
Applicants thank the Examiner for the indication that claim 18 would be allowable if rewritten to overcome the rejection under 35 U.S.C § 112, second paragraph. As noted above, claim 18 has been amended in non-limiting fashion, and is now believed to be in proper form.

**Conclusion**

Consequently, pending claims 1-21 are believed to be in form for allowance, and an indication to that effect is respectfully requested at this time. Please apply any charges or credits to Deposit Account No. 19-0733.

Dated: January 19, 2006

Respectfully submitted,

  
\_\_\_\_\_  
Gregory J. Cohan, Reg. No. 40,959  
BANNER & WITCOFF, LTD.  
28 State Street, 28th Floor  
Boston, MA 02109  
(617) 720-9600